



IAP16 Rec'd PCT/PTO 16 NOV 2007

PCT

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 P.O. Box 1450  
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/522,106	Karl-Heinz Kogel	532622010500

INTERNATIONAL APPLICATION NO.

PCT/EP03/07589

I.A. FILING DATE

PRIORITY DATE

07/14/2003

07/22/2002

Morrison & Foerster  
 1650 Tysons Boulevard, Suite 300  
 McLean, VA 22102

CONFIRMATION NO. 9243

371 FORMALITIES LETTER



\*OC000000025425764\*

Date Mailed: 08/17/2007

### NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495)

- Priority Document
- Copy of the International Application filed on 01/24/2005
- Copy of the International Search Report filed on 01/24/2005
- Copy of IPE Report filed on 01/24/2005
- Preliminary Amendments filed on 01/24/2005
- Information Disclosure Statements filed on 02/25/2005
- Biochemical Sequence Diskette filed on 07/26/2007
- Oath or Declaration filed on 07/26/2007
- Biochemical Sequence Listing filed on 01/24/2005
- Request for Immediate Examination filed on 01/24/2005
- U.S. Basic National Fees filed on 01/24/2005
- Assignment filed on 01/24/2005
- Priority Documents filed on 01/24/2005
- Power of Attorney filed on 01/24/2005
- Specification filed on 07/26/2007
- Claims filed on 07/26/2007
- Abstracts filed on 07/26/2007
- Drawings filed on 07/26/2007

Applicant's response filed 07/26/2007 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 04/30/2007 have not been completed.

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 CFR 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR

1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

**Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).**

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

**For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:**

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)**

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

LAMONT M HUNTER

Telephone: (703) 308-9140 EXT 201

**PART 2 - OFFICE COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/522,106	PCT/EP03/07589	532622010500

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Application No.: 10/522,106

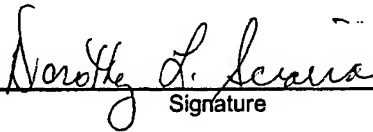
Attorney Docket No.: 12810-00067-US

## Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

MS PCT  
ATTENTION : PCT Legal Office  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on November 15, 2006  
Date



Signature

Dorothy L. Sciarra

Typed or printed name of person signing Certificate

Registration Number, if applicable

(302) 658-9141

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Request for Reconsideration (5 pages)  
Exhibit 1 – Recordation Form Cover Sheet and Assignment of Application (3 pages)  
Exhibit 2 – Declaration, Power of Attorney and Petition (3 pages)  
Exhibit 3 – Notice of Recordation and Assignment Document (3 pages)  
Response to Notification to Comply with Requirements for Patent Applications  
Containing Nucleotide and/or Amino Acid Sequence Disclosures and Amendment (3  
pages)  
Copy of Notification to Comply with Requirements for Patent Applications Containing  
Nucleotide and/or Amino Acid Sequence Disclosures (9 pages)  
Sequence Listing (CRF copy – 1 Disk and Paper copy (54 pages))  
Statement to Support Filing and Submission in Accordance with 37 CFR §§1.821  
through 1.825 (2 pages)  
Certificate of Mailing (1 page)  
Postcard

**Due Date:** N/A

**Atty Docket No.:** 12810-00067-US

**Client Ref. No.:** PF0000053765/STK

**Inventor:** Karl-Heinz Kogel et al.

**Application No.:** 10/522106

**Filing Date:** January 24, 2005

**Title:** METHOD FOR OBTAINING THE PATHOGENIC RESISTANCE IN PLANTS

**Documents Filed:**

Request for Reconsideration (5 pages)  
Exhibit 1 – Recordation Form Cover Sheet and Assignment of Application (3 pages)  
Exhibit 2 – Declaration, Power of Attorney and Petition (3 pages)  
Exhibit 3 – Notice of Recordation and Assignment Document (3 pages)  
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Copy of Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (9 pages)  
Sequence Listing (CRF copy – 1 Disk and Paper copy (54 pages))  
Statement to Support Filing and Submission in Accordance with 37 CFR §§1.821 through 1.825 (2 pages)  
Certificate of Mailing (1 page); Postcard

**Via:** First Class Mail

**Handling Atty:** RMM/dls

**Date:** November 15, 2006

499799

**Due Date:** N/A

**Atty Docket No.:** 12810-00067-US  
**Client Ref. No.:** PF0000053765/STK

**Inventor:** Karl-Heinz Kogel et al.

**Application No.:** 10/522106

**Title:** METHOD FOR OBTAINING THE PATHOGENIC RESISTANCE IN PLANTS

**Documents Filed:**

Request for Reconsideration (5 pages)  
Exhibit 1 – Recordation Form Cover Sheet and Assignment of Application (3 pages)  
Exhibit 2 – Declaration, Power of Attorney and Petition (3 pages)  
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Certificate of Mailing (1 page); Postcard

**Via:** First Class Mail

**Handling Atty:** RMM/dls

499799

**Date:** November 15, 2006

**RECEIVED**

**Filing Date:** January 24, 2005

20 NOV 2006

Legal Staff  
International Division



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/522,106	Karl-Heinz Kogel	532622010500

INTERNATIONAL APPLICATION NO.
PCT/EP03/07589

LA. FILING DATE	PRIORITY DATE
07/14/2003	

Morrison & Foerster  
 1650 Tysons Boulevard, Suite 300  
 McLean, VA 22102

CONFIRMATION NO. 9243

371 FORMALITIES LETTER



\*OC000000016430884\*

Date Mailed: 07/01/2005

### NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 CFR 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patent Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patent Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

LAMONT M HUNTER

Telephone: (703) 308-9140 EXT 201

## PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/522,106	PCT/EP03/07589	532622010500

FORM PCT/DO/EO/922 (371 Formalities Notice)

**Press Flap Down Firmly**

← Pull to Open

→ Pull to Open

**ANTI-STATIC  
DISKETTE MAILER**

**CAUTION**

**Do not bend or fold**

**Avoid exposure to all magnetic fields**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
CONTENTS: Substitute CRF Copy  
Name of Applicant(s): Kogel, et al.  
Title: METHOD FOR OBTAINING THE  
PATHOGENIC RESISTANCE IN  
PLANTS

Data Recorded Date: 11/14/06

Operating System: MS-DOS

Reference Number: 12810-00067-US

Application Number: 10/522106

Appln. Filing Date: 01/24/2005

CONTENTS: Substitute CRF Copy  
Name of Applicant(s): Kogel, et al.  
Title: METHOD FOR OBTAINING THE  
PATHOGENIC RESISTANCE IN  
PLANTS

Data Recorded Date: 11/14/06

Operating System: MS-DOS

Reference Number: 12810-00067-US

Application Number: 10/522106

Appln. Filing Date: 01/24/2005





Connolly Bove Lodge & Hutz LLP  
1007 North Orange Street  
P.O. Box 2207  
Wilmington, DE 19899

02 APR 2007

In re Application of  
Kogel et al.  
Application No.: 10/522,106  
PCT No.: PCT/EP03/07589  
Int. Filing Date: 14 July 2003  
Priority Date: 22 July 2002  
Attorney Docket No.: 12810-00067-US  
For: Method For Obtaining Pathogenic  
Resistance In Plants

DECISION

This is in response to the "Request For Reconsideration" filed on 20 November 2006.

### DISCUSSION

In a Decision mailed on 02 October 2006, the petition for withdrawal of the holding of abandonment and the request for withdrawal as attorney or agent filed 25 February 2005 was treated as follows:

With regard to the Request For Withdrawal As Attorney Or Agent filed on 25 February 2005, counsel's attention is drawn respectfully to MPEP 402.06, which states in part that

In the event that a notice of withdrawal is filed by the attorney or agent of record, the file will be forwarded to the Technology Center Director where the application is assigned where appropriate procedure will be followed pertaining to the withdrawal. The **withdrawal is effective when approved** rather than when received.

Since the approval by the Director of the withdrawal was not given prior to the mailing of the Form PCT/DO/EO/922, that form was properly mailed to the pre-existing correspondence address of record.

With regard to the Transmittal of Power of Attorney, and attached Power of Attorney, Statement Under 37 CFR 3.73(b), Assignment and Recordation Form Cover Sheet filed by present counsel on 03 June 2005, inspection of the included "Assignment of Application" reveals that it does not specifically identify the application which is being assigned. Therefore, the 03 June 2005 submission did not properly establish the right of the assignee to take action in this case, and so the submission was not effective in changing the pre-existing correspondence address of record.

Since the Form PCT/DO/EO/922 was properly mailed to the correct correspondence of record, the petition to withdraw the holding of abandonment is **DISMISSED**, without prejudice.

In the same Decision, the petition under 37 CFR 1.137(b) was dismissed without prejudice because

Regarding requirement (1), the required reply in this case is the reply required by the Form PCT/DO/EO/922 mailed on 01 July 2005 - specifically, a substitute computer readable form (CRF) of the sequence listing and a statement that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter. Since applicants have not filed such a response, requirement (1) has not been met.

*Petition To Withdraw Holding Of Abandonment*

Petitioner, requesting reconsideration of the petition to withdraw the holding of abandonment, argues that "on the initial filing date of the application which included the 'Assignment of Application' with the proper cover sheet, it would have been impossible for the U.S. application number to be indicated," and that "at the time of filing of the U.S. national stage application on January 24, 2005, the 'Assignment of Application' was already executed and could not have specifically identified the application by its U.S. application number." Petitioner further urges that the Assignment was identified by an internal docket number, 0000053764, and that "the submission of the Power of Attorney and change of correspondence address was not to establish the rights of the assignee, since these were already established with the initial filing of the application, but to appoint new attorneys and change the correspondence address."

Petitioner's attention is respectfully drawn to 37 CFR 3.21, which provides that

**37 CFR 3.21 Identification of patents and patent applications.**

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, *e.g.*, 07/123,456). An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number (*e.g.*, PCT/US90/01234). If an assignment of a patent application filed under § 1.53(b) is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by the name of each inventor and the title of the invention so that there can be no mistake as to the patent application intended. If an assignment of a provisional application under § 1.53(c) is executed before the provisional application is filed, it must identify the provisional application by the name of each inventor and the title of the invention so that there can be no mistake as to the provisional application intended.

And to MPEP 302.03, which states that

The patent or patent application to which an assignment relates must be identified by patent number or application number unless the assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed. Then, the application must be identified by \*\* the name(s) of the inventors, and the title of the invention. If an assignment of a provisional application is executed before the provisional application is filed, it must identify the provisional application by name(s) of the inventors and the title of the invention.

The Office makes every effort to provide applicants with the application numbers for newly filed patent applications as soon as possible. It is suggested, however, that an assignment be written to allow entry of the identifying number after the execution of the assignment. An example of acceptable wording is:

"I hereby authorize and request my attorney, (Insert name), of (Insert address), to insert here in parentheses (Application number , filed ) the filing date and application number of said application when known."

Inspection of the "Assignment of Application" filed on 03 June 2005 reveals that said assignment does "identify the patent application by the name of each inventor," but that it does not identify the application by the title. Rather, the space for the title has been left blank. 37 CFR 3.21 does not provide for this defect to be overcome by the provision of an identifying number (e.g., docket number) in place of the title. In view of 37 CFR 3.21 and MPEP 302.03, it therefore would not be appropriate to accept the "Assignment of Application" filed on 03 June 2005 for purposes of establishing the ownership of the application by BASF Plant Science GmbH in order to take action in the application pursuant to 37 CFR 3.73(b).

Petitioner observes that the "Assignment of Application" was recorded in the USPTO on 24 January 2005 at Reel/Frame No. 016749/0176. However, the reel and frame information was not furnished on the 37 CFR 3.73(b) statement filed on 03 June 2005; rather, the location provided for this information to be recorded on the form was left blank. Since the 37 CFR 3.73(b) statement neither referred to the reel/frame number where the assignment was recorded nor was accompanied by a copy of an assignment properly identifying the application to which it was directed, the submission of 03 June 2005 was not effective in changing the correspondence address of record. Consequently, the Notification To Comply... (Form PCT/DO/EO/922) mailed on 01 July 2005 was properly addressed to previous counsel of record. Accordingly, it would not be appropriate to withdraw the holding of abandonment on the basis of the present record.

*Petition Under 37 CFR 1.137(b)*

As noted supra, the previous petition under 37 CFR 1.137(b) was not accompanied by the required reply (in the form of a substitute computer readable form (CRF) of the sequence listing and a statement that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter had not been filed. Review of the record reveals that an acceptable CRF was entered into the USPTO database on 12 December 2006, and that the 20 November 2006 submission further included statements that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and includes no new matter. As such, the requirements of 37 CFR 1.137(b) have now been satisfied.

It is noted that the declaration of the inventors filed on 24 January 2005 is defective in that it includes an un-initialed alteration. Specifically, the date of Mr. Kogel's signature has been covered and re-entered, without the alteration being initialed by Mr. Kogel.

**CONCLUSION**

The petition to withdraw the holding of abandonment is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration compliant with 37 CFR 1.497(a) and (b).



George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459

cc: Morrison & Foerster LLP  
1650 Tysons Blvd., Suite 300  
McLean, VA 22102

ATTORNEY DOCKET: 53262010500  
SERIAL NO.: Not Yet Assigned  
INVENTORS: Karl Heinz ROGEL et al.

MAIL DATE: January 24, 2005  
ATTY/Secy.: BEB/laar  
FILING DATE: January 24, 2005

TITLE: METHOD FOR OBTAINING THE PATHOGENIC RESISTANCE

Papers enclosed herewith:

**10/522106**

- ☒ Transmittal Form
- ☐ Fee Transmittal \$ \_\_\_\_\_
- ☒ Specification including claims and abstract
- ☒ Drawings
- ☒ Declaration and Power of Attorney
- ☐ Priority Document
- ☐ Information Disclosure Statement
- ☐ PTO Form 1449 including \_\_\_\_\_ references
- ☒ Assignment Recordation Form
- ☒ Assignment
- ☒ Application Data Sheet
- ☐ Notice to File Missing Parts
- ☐ Appeal Brief

- ☐ Amendment ☒ Preliminary Amendment
- ☐ Issue Fee (in duplicate)
- ☐ Petition under \_\_\_\_\_
- ☐ Request for Refund
- ☐ Sequence Listing (PAPER)
- ☐ Computer Readable Format (DISK)
- ☐ Status Inquiry
- ☐ Request Certificate of Correction
- ☐ Request for Corrected Filing Receipt
- ☐ Request for Corrected Assignment
- ☐ Extension of Time \_\_\_\_\_ month
- ☐ Notice of Appeal
- ☒ Other Copy of the International Appl.

RECEIVED BY THE UNITED STATES PATENT AND TRADEMARK OFFICE  
va-53511

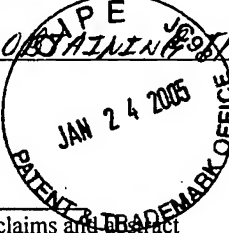
24 JAN 2005  
DT14 Rec'd PCT/PTO

ATTORNEY DOCKET: 53262010500  
SERIAL NO.: Not Yet Assigned  
INVENTORS: Karl Heinz ROGEL et al.

MAIL DATE: January 24, 2005  
ATTY/Secy.: BEB/laar  
FILING DATE: January 24, 2005

TITLE: METHOD FOR OBTAINING THE PATHOGENIC RESISTANCE

Papers enclosed herewith:



- ☒ Transmittal Form
- ☐ Fee Transmittal \$ \_\_\_\_\_
- ☒ Specification including claims and abstract
- ☒ Drawings
- ☒ Declaration and Power of Attorney
- ☐ Priority Document
- ☐ Information Disclosure Statement
- ☐ PTO Form 1449 including \_\_\_\_\_ references
- ☒ Assignment Recordation Form
- ☒ Assignment
- ☒ Application Data Sheet
- ☐ Notice to File Missing Parts
- ☐ Appeal Brief

- ☐ Amendment ☒ Preliminary Amendment
- ☐ Issue Fee (in duplicate)
- ☐ Petition under \_\_\_\_\_
- ☐ Request for Refund
- ☐ Sequence Listing (PAPER)
- ☐ Computer Readable Format (DISK)
- ☐ Status Inquiry
- ☐ Request Certificate of Correction
- ☐ Request for Corrected Filing Receipt
- ☐ Request for Corrected Assignment
- ☐ Extension of Time \_\_\_\_\_ month
- ☐ Notice of Appeal
- ☒ Other Copy of the International Appl.

RECEIVED BY THE UNITED STATES PATENT AND TRADEMARK OFFICE  
va-53511

**DOCKETED**

1AP16 Rec'd PCT/PTO 16 NOV 2007

PTO/SB/92 (11-07)

Approved for use through 11/30/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Application No. (if known): 10/522,106

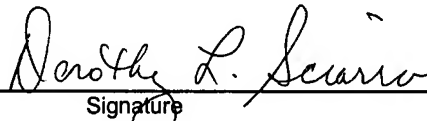
Attorney Docket No.: 12810-00067-US

## Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on November 13, 2007  
Date

  
\_\_\_\_\_  
Signature

Dorothy L. Sciarra

\_\_\_\_\_  
Typed or printed name of person signing Certificate

\_\_\_\_\_  
Registration Number, if applicable

\_\_\_\_\_  
(302) 658-9141  
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Response to Notification of Defective Response (4 pages) with  
Exhibit Tabs 1-5  
Certificate of Mailing (1 page)  
Postcard

Docket No. 12810-00067-US  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Karl-Heinz Kogel et al.

Application No.: 10/522,106

Confirmation No.: 9243

Filed: January 24, 2005

Art Unit: N/A

For: METHOD FOR OBTAINING THE  
PATHOGENIC RESISTANCE IN PLANTS

Examiner: Not Yet Assigned

**RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE**

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Notification of Defective Response dated August 17, 2007  
(copy enclosed herewith).

Applicants strongly disagree that the previous response submitted July 19, 2007 in response to the Notification of Missing Requirements mailed April 30, 2007, was defective. Applicants have already fully complied **NOT ONCE, BUT TWICE** with the requirements under 37 CFR §§ 1.822-1.823 as explained below. Applicants, again as a courtesy, are submitting a **THIRD** copy of the Sequence Listing in computer readable format in compliance with 37 CFR §§ 1.822-1.823.

Additionally, the Patent Office has sent the Notification of Defective Response to the wrong attorneys of record and the wrong correspondence address. Applicants had originally filed a change of Power of Attorney on May 31, 2005, with change of correspondence address, and subsequently sent a newly executed Combined Declaration and Power of Attorney with **change of correspondence address** in the response filed July 19, 2007, requesting that the correspondence address be changed accordingly. The Patent Office sent the Notice of Defective Response mailed August 17, 2007 to "Morrison & Foerster," the wrong attorneys of record. Applicants respectfully request that the **correct correspondence address and attorneys** of

record be entered and any future correspondence be sent to this address. Please advise us of when we might expect to receive a Notice Of Acceptance Of Power Of Attorney in response to the newly executed Power of Attorney with change of correspondence address which was mailed July 19, 2007.

Applicants strongly disagree that the previous response regarding the Sequence Listing submitted July 19, 2007, in response to the Notification of Missing Requirements mailed April 30, 2007, was defective. The Patent Office has again sent the **“Raw Sequence Listing Error Report” dated February 2, 2005**. However, the Patent Office attached a paper copy of the sequence listing submitted on November 15, 2006, but without an updated Sequence Listing Report. The paper copy of the Sequence Listing indicates the mandatory fields of <220> to <223> correctly show “which residue n or Xaa represents” as requested on pages 5 and 6 of the “Raw Sequence Listing Error Report” of February 2, 2005. Furthermore, the THIRD copy of the attached disk of the Sequence Listing in Computer Readable Format, as have the previous copies, has been run through the Checker Program and found to be error free.

As already indicated in the previous response, a replacement sequence listing in compliance with 37 CFR §§ 1.822-1.823 was already submitted to the USPTO PCT Legal Office on November 15, 2006. This sequence listing was furthermore accepted and entered by the USPTO PCT Legal Office as evidenced by the Decision of the PCT Legal Examiner dated April 2, 2007, where the petition under 37 CFR 1.137(b) was granted. As already explained in the previous response, in the Decision (see page 3, second to last paragraph), the PCT Legal Examiner acknowledged that “an acceptable CRF was entered into the USPTO database on 12 December 2006, and that the 20 November 2006 submission further included statements that the content of the CRF is identical to the written (on paper or compact disc) sequence listing and includes no new matter. As such, the requirements of 37 CFR § 1.137(b) have now been satisfied.” Furthermore as a courtesy, Applicants had enclosed with the previously filed response of July 19, 2007, a copy of the previous Sequence Listing submission of November 20, 2006, with a copy of the stamped returned postcard and a copy of the Decision from the PCT Legal Examiner.

As a courtesy, Applicants are again submitting a copy of the previous Sequence Listing



submission in computer readable format in compliance with 37 CFR §§ 1.821-1.825 mailed November 15, 2006. Applicants respectfully request that the Patent Office reconcile their records in accordance with the Decision from the PCT Legal Examiner and the previous submissions.

Applicants believe that all requirements have been met and respectfully request that the application be forwarded for examination.

Additionally, on the Notification of Defective Response mailed August 17, 2007, Applicants note that the dates associated with the specification, claims, abstract and drawings are incorrect. The dates associated with the specification, claims, abstract and drawings indicate July 26, 2007 and should reflect the actual filing date of January 24, 2005. The application including the specification, claims, abstract and drawings was filed on January 24, 2005 as evidenced by the stamped return postcard and the return postcard indicating the serial number (copies of which are attached). Applicants respectfully request correction of the dates associated with the specification, claims, abstract and drawings indicated on the Notification to reflect the filing date of January 24, 2005.

Applicants believe no fees are due with this response, since the Patent Office erroneously sent the Notification of Defective Response to the wrong address of record, and furthermore Applicants previously complied with the sequence rules as indicated by the PCT Legal Examiner.

If any issues regarding the Sequence Listing, change of correspondence address, and/or dates remain, the Patent Office is respectfully requested to contact the attorney of record below.

Respectfully submitted,

By 

Roberte M. D. Makowski, Ph.D., J.D.

Registration No.: 55,421

CONNOLLY BOVE LODGE & HUTZ LLP

1007 North Orange Street; P.O. Box 2207

Wilmington, Delaware 19899

(302) 658-9141

(302) 658-5614 (Fax)

Attorney for Applicants

**Attachments:**

1. Copy of disk with Computer Readable Format of Sequence Listing.
2. Copy of Notification of Defective Response dated August 17, 2007.
3. Previously submitted Response to Notification to Comply filed November 15, 2006, with stamped return postcard.
4. Decision of the PCT Legal Examiner of April 2, 2007.
5. Stamped return postcards of initial filing of application dated January 24, 2005.